

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CASE NO.: 2:24-cv-05390

MORGAN HOWARTH,

Plaintiff,

v.

GREEN FOUNDRY CO.,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff MORGAN HOWARTH, by and through his undersigned counsel, brings this Complaint against Defendant GREEN FOUNDRY CO, for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MORGAN HOWARTH (“Howarth”), brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Howarth's original copyrighted Work of authorship.

2. Howarth, based in Washington DC, has been a photographer for over 25 years and first came to photography while studying engineering in college. Inspired by a photojournalist, he changed his course load and never looked back. Now, Howarth focuses on interior and architecture work but is adept in almost all forms of photography. His rich and illustrative style brings architecture to life by combining a multitude of separately lit images into that one perfect shot. Howarth has photographed for a multitude of national clients in a variety of businesses.

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3. Defendant GREEN FOUNDRY CO (“Green”) is a national wholesale distributor of outdoor lighting and fire features. At all times relevant herein, Green owned and operated the website located at the internet URL www.greenfoundryco.com (the “Website”).

4. Howarth alleges that Green copied Howarth’s copyrighted Work from the internet in order to advertise, market and promote its business activities. Green committed the violations alleged in connection with Defendant’s business for purposes of advertising and promoting sales to the public in the course and scope of Green’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Green is subject to personal jurisdiction in Pennsylvania.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Green engaged in infringement in this district, Green resides in this district, and Green is subject to personal jurisdiction in this district.

DEFENDANT

9. Green Foundry Co is a Pennsylvania limited liability company with its headquarters at 1639 North Hancock Street, Suite 301, Philadelphia, Pennsylvania, 19122, and can be served at its registered office address, 2020 Walnut Street, Apartment 23e, Philadelphia, Pennsylvania, 19103.

THE COPYRIGHTED WORK AT ISSUE

10. In 2020, Howarth created the photograph titled 11404_Coyote_Rear_Yard_Pano_F_R, which is shown below and referred to herein as the “Work”.



11. Howarth registered the Work with the Register of Copyrights on December 18, 2020, and was assigned registration number VA 2-229-899. The Certificate of Registration is attached hereto as **Exhibit 1**.

12. Howarth’s Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets. The Work in perspective, orientation, positioning, lighting, and other details is entirely original, distinctive, and unique. As such, the work qualifies as subject matter protectable under the Copyright Act.

13. At all relevant times Howarth was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY GREEN

14. Green has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, Green copied the Work.

16. On or about July 20, 2023, Howarth discovered the unauthorized use of his Work on the Website advertising for sale the “In-Lite EVO HYDE” outdoor fireplace.

17. Green copied Howarth's copyrighted Work without Howarth's permission or authority.

18. After Green copied the Work, they made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its outdoor lighting and fire features products.

19. Green copied and distributed Howarth's copyrighted Work in connection with Green's business for purposes of advertising and promoting Green's business, and in the course and scope of advertising and selling products and services.

20. Green committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

21. Howarth never gave Green permission or authority to copy, distribute or display the Work at issue in this case.

22. Howarth notified Green of the allegations set forth herein on August 10, 2023 and September 5, 2023. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

23. Howarth incorporates the allegations of paragraphs 1 through 22 of this Complaint as if fully set forth herein.
24. Howarth owns a valid copyright in the Work at issue in this case.
25. Howarth registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).
26. Green copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Howarth's authorization in violation of 17 U.S.C. § 501.
27. Green performed the acts alleged in the course and scope of its business activities.
28. Green's acts were willful.
29. Howarth has been damaged.
30. The harm caused to Howarth has been irreparable.

WHEREFORE, Plaintiff MORGAN HOWARTH demands for judgment against the Defendant GREEN FOUNDRY CO, that:

- a) Green and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b) Green be required to pay Howarth his actual damages and Defendant's profits attributable to the infringement, or, at Howarth's election, statutory damages, as provided in 17 U.S.C. § 504;
- c) Howarth be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d) Howarth be awarded pre- and post-judgment interest; and

- e) Howarth be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Howarth hereby demands a trial by jury of all issues so triable.

Dated: October 8, 2024

Respectfully submitted,

/s/ Joseph A. Dunne
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